

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BRENDA MORRIS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:08CV1006 RWS
)	
UNUM PROVIDENT LIFE INSURANCE)	
COMPANY and)	
WASHINGTON UNIVERSITY SCHOOL OF)	
MEDICINE AND ASSOCIATED HOSPITALS,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Plaintiff Patricia Brenda Morris alleges that Defendants improperly denied her claim for disability insurance benefits. Morris asserts that she was provided disability benefits under a group insurance policy issued by Defendant UNUM Provident Life Insurance Co. to the Morris' employer Defendant Washington University School of Medicine and Associated Hospitals. Morris filed this lawsuit in state court asserting that she is owed benefits under the policy. Her state court petition asserted causes of action for breach of contract, intentional and negligent infliction of emotional distress, and for vexatious refusal to pay her claim.

Defendants assert that Morris's claims are preempted under the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §§ 1001, *et seq.* Defendants removed the case based on federal question jurisdiction. After the case was removed Defendants filed a motion to dismiss for failure to state a claim based on ERISA's preemption of Morris's state law claims. Morris seeks to have the case remanded or, in the alternative, seeks leave to file an amended complaint to assert claims under ERISA.

Morris does not dispute that the group health insurance policy at issue is governed by ERISA. Her state law claims based on the improper processing or denial of employment benefits under an ERISA plan are preempted by ERISA. Pilot Life Insurance v. Dedeaux, 481 U.S. 41, 57 (1987).

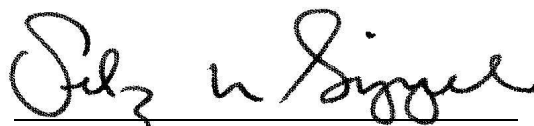
I find that this case was properly removed under the federal question jurisdiction created by Defendants' assertion of ERISA preemption. Because Morris's state law claims are preempted by ERISA I will grant Defendants' motion to dismiss. However, Morris will be granted the opportunity to file an amended complaint asserting a cause of action under ERISA.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion to remand [#10] is **DENIED**.

IT IS FURTHER ORDERED that Defendant motion to dismiss [#8] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff shall have until **October 13, 2008** to file an amended complaint.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of September, 2008.